



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Glenn Rider
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, Pennsylvania 17105-8775

NOV 18 2010

Dear Mr. Rider:

This correspondence conveys the U.S. Environmental Protection Agency's (EPA or the Agency) final comments regarding the latest version of Pennsylvania's Phase II Municipal Separate Storm Sewer System (MS4) general permit (PAG-13), which was submitted to the Agency via email from Barry Newman, Pennsylvania Department of Environmental Protection (PADEP), on August 20, 2010. Another version which was revised to potentially release permittees from any responsibility for Minimum Control Measure (MCM) Number 5, Post-Construction Stormwater Management in New and Redevelopment was submitted on November 18, 2010. EPA considers this a substantial revision. As such, EPA is allowed ninety (90) days from today, or until February 16, 2011, to review this draft permit under the terms of the Memorandum of Agreement (MOA) between PADEP and EPA for authorization of the National Pollutant Discharge System Elimination (NPDES) Program. We have every expectation that we will be able to resolve our concerns in the near future and do not support a one-year extension of this permit. As a matter of clarification, this letter also represents EPA's interpretation of the requirements and expectations for the PAG-13 and its permittees based on previous discussion and correspondence between our respective agencies and federal regulatory requirements.

MS4 Regulated Boundary

PADEP and EPA agree that the regulated system includes the entire storm sewer system located within the designated/urbanized boundary and that discharges from those systems are considered point sources. All drainage from the urbanized area into the MS4 system is covered by the MS4 permit and, therefore, the ultimate responsibility for regulating and controlling discharges into the system rests with the permittee. Municipalities in Pennsylvania, like those in other states, have broad authority to regulate and control the activities of individuals and landowners within their jurisdiction. This is evidenced by zoning and land development requirements, trash collection restrictions, transfer of property inspections, enforcement of plumbing and building codes, etc.

